

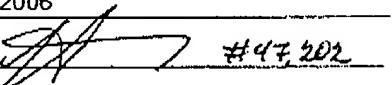
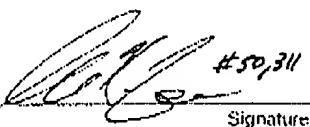
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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)
		13DV-13932 (07783-0078)
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.6(a)]</p> <p>on <u>January 24, 2006</u></p> <p>Signature  #47,202</p> <p>Typed or printed name <u>Theodore R. West</u></p>		
Application Number 09/833,432		Filed April 12, 2001
First Named Inventor SHUMAKER, et al.		
Art Unit 2191	Examiner Qamrun NAHAR	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s).</p> <p>Note: No more than five (5) pages may be provided.</p>		
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>50,311</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>		
 <u>#50,311</u> <p>Signature Shawn K. Leppo, Esq.</p> <p>Typed or printed name</p> <p><u>(717) 232-8000</u> Telephone number</p> <p><u>January 24, 2006</u> Date</p>		
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>		

* Total of 1 forms are submitted.

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Attorney Docket No. 13DV13932 (07783-0078)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:

Lance C. SHUMAKER, et al.

Group Art Unit: 2191

Patent Application No.: 09/833,432

Examiner: Qamrun Nahar

Filed: April 12, 2001

Confirmation No.: 5277

Title: SYSTEM AND METHOD FOR UPDATING AN INTRANET PORTAL

MAILSTOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

This Pre-Appeal Brief Request for Review is filed in response to a Final Office Action dated October 28, 2005 in the above-captioned application (the "Application") in accordance with the procedures announced in the Official Gazette on July 12, 2005. A Notice of Appeal and the requisite fee is filed concurrently herewith.

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Attorney Docket No. 13DV13932 (07783-0078)

**CONSISE STATEMENT OF ISSUES TO ACCOMPANY THE
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

I. REJECTION UNDER 35 U.S.C. §103(a)

A. Claims 1-6, 8-14 and 17-21.

Claim 1-6, 8-14 and 17-21 remain rejected by Cohen in view of Anuff.

The Examiner has committed clear error by using an improper combination of references, having admitted that the features of the secondary reference are not equated with the features of the primary reference for which it is substituted in making the rejection.

As discussed in more detail at pages 8-13 of the Response filed by Applicants on August 19, 2005 (the 8/19/05 Response), the rejection by the Examiner is clearly erroneous because the primary reference (Cohen) is directed to a method for determining a standards document to be added to an intranet portal, while the secondary reference (Anuff) merely provides the unremarkable proposition that intranet portals may include modules.

In the Final Action, the Examiner argues that it would have been obvious to arrive at the claimed method of updating intranet modules by modifying a method of updating standards documents accessible over an intranet in light of a reference that mentions intranet modules. See Final Action at page 4. The Examiner later admits that the modules of the secondary reference are not equated with the standards documents of the primary reference: "The Examiner is not equating the standards documents of Cohen with the modules of Anuff." Id. at page 14. Yet, the only way the Examiner could possibly sustain the rejection is if, in fact, he had equated the two. The only method disclosed in Cohen pertains to the standards documents. Substituting one item (i.e. the modules of Anuff) for another (i.e. the standards documents of Cohen) to form a rejection in which the items *admittedly* do not equate to one another constitutes clear error. If the module of Anuff is not equated with the standards document Cohen, then there is no basis for

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the alleged combination, i.e. there would be no reason for one to make the substitution that forms the basis for the rejection.

Even assuming, *arguendo*, that the Examiner's admission that the two are not interchangeable was inoperative, neither reference teaches, discloses or suggests why one of ordinary skill in the art would modify the intranet portal of Cohen that merely serves as a conduit by which the standards documents are transferred once an addition of a standard document has been determined.

Cohen fails to contain any disclosure that a module in an intranet portal is itself being added or updated, much less that any method of doing so would be conducted according to the same method disclosed with respect to determining the addition of the standards documents. See, e.g. the argument at pg 11 of 8/19/05 Response. Thus, the fact that Anuff teaches that intranet portals may have modules is clearly insufficient to create a case of *prima facie* obviousness that an intranet portal may be added or updated according to the method found in Cohen regarding standards documents.

The Examiner appears to even admit that the rejection is based on hindsight reasoning, but that because the Examiner asserts the hindsight is minor in nature, it is excused. See Final Action at 10.

Any motivation to combine Cohen and Anuff is further lacking because Cohen fails to teach an administrator, as acknowledged by the Examiner. See Final Action at 4. Thus, adding an administrator, as allegedly taught in the combination of Anuff, to a reference that doesn't teach an administrator would appear to increase costs, not decrease costs as alleged by the Examiner: "The modification [of adding an administrator] would be obvious because one of ordinary skill in the art would be motivated to reduce the costs of maintenance of a portal where

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a portal must be continually enhanced." Id. Applicants respectfully submit that adding an administrator only for the purposes of making the determinations found in Applicants' claimed invention would be cost inefficient, and thus one would not be motivated to add an administrator to a reference that describes a process that is apparently capable of operating without an administrator.

B. Claims 15 and 16.

Claims 15 and 16 remain rejected by Cohen in view of Anuff and Sprague.

Claim 15 and 16 depend from independent claims that, as shown above, were clearly erroneously rejected. As a result, claims 15 and 16 are also in condition for allowance.

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CONCLUSION

The Examiner has committed clear error by improperly combining references, and specifically in admitting that the modules of Anuff are equitable to the standards documents of Cohen but then relying on substituting the modules of Anuff for the standards documents of Cohen to form the basis for the rejection. The Examiner has also clearly erroneously provided an additional basis for motivation relating to saving costs, when the combination of references would almost certainly result in increased costs, destroying the alleged motivation.

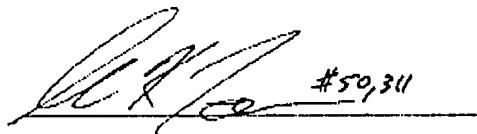
Applicants respectfully request that the Panel withdraw all outstanding rejections and allow the Application.

Date: January 24, 2006

Respectfully submitted,

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